

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE COUNTY ADMINISTRATIVE CODE
TO ESTABLISH AN EYE GNAT ABATEMENT APPEALS BOARD

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1: The Board of Supervisors finds and determines that provision should be made for an Eye Gnat Appeals Board for Commercial Organic Farms to ensure the protection of both farmers and communities. The proposal will change the appropriate sections of the County Administrative Code to establish a mechanism for seating selecting and appointing members in accordance with a Board letter entitled "*An Ordinance Amending Title 6 Of The County Code Of Regulatory Ordinances Relating To The Prevention And Control Of Eye Gnat Impacts Associated With Commercial Organic Farms And An Ordinance Amending The County Administrative Code To Establish An Eye Gnat Abatement Appeals Board,*" to be heard by the Board on October 31, 2012 and December 5, 2012.

Section 2: Article XV-AA is hereby added to the San Diego County Administrative Code to read as follows:

SEC. 235. SAN DIEGO COUNTY EYE GNAT ABATEMENT APPEALS BOARD.

There is hereby created and established the San Diego County Eye Gnat Abatement Appeals Board ("EGAAB" or "Board"). This Board is established to hear administrative appeals and petitions filed pursuant to Chapter 4 of Division 4 of Title 6 of the County Code.

SEC. 235.1. MEMBERSHIP AND SELECTION.

The EGAAB shall be composed of two persons who are owners or operators of a commercial organic farm, one person who is a California licensed pest control advisor and not associated with the County of San Diego, Department of Environmental Health or Agriculture, Weights and Measures, or any commercial organic farm, and two persons who are representatives of the community at large, not associated with any commercial organic farm, one of whom is a business owner. Appointees to the EGAAB may concurrently serve on the Fly Abatement Appeals Board if appointed to do so.

Members shall be nominated by the following for appointment by the Board of Supervisors:

(1) First community at large member (for an initial two year term), by the Supervisor, District 2. For subsequent vacancies, any Supervisor from a district that has recently generated a substantial number of eye gnat complaints may also make a nomination for this position.

(2) Second community at large member (for an initial three year term) by the Supervisor, District 3. For subsequent vacancies, any Supervisor from a district that has recently generated a substantial number of eye gnat complaints may also make a nomination for this position.

(3) First owner or operator of an organic farm (for an initial four year term), by the Supervisor, District 5.

(4) Second owner or operator of an organic farm (for an initial three year term) by the Supervisor, District 4.

(5) California licensed pest control advisor (for an initial two year term) by the Supervisor, District 1.

SEC. 235.2. TERM OF OFFICE.

Initial appointments to create the EGAAB shall have staggered terms of two to four years as set out in section 235.1. All subsequent appointments shall be for a term of three calendar years. Members shall be eligible for reappointment.

SEC. 235.3. VACANCIES.

A vacancy shall occur on the happening of any of the following events before the expiration of the term:

- (1) The death of the incumbent.
- (2) The resignation of the incumbent.
- (3) Voluntary recusal of an incumbent from a matter based on a conflict of interest.
- (4) Absence from any proceeding where a quorum could not be established.
- (5) Or for any reason specified in Government Code Section 1770.

When a vacancy occurs as the result of recusal or absence both the member and the nominating authority shall be notified by the Director, DEH. Vacancies shall be filled in the same manner as the initial appointment when a vacancy occurs. If a vacancy occurs, a new appointee shall serve for the unexpired term of the member being replaced.

SEC. 235.4. ORGANIZATION.

(a) The EGAAB shall choose a presiding officer for each appeal hearing or petition proceeding that it conducts.

(b) Rules. The Board shall conduct hearings and respond to petitions as set forth in the County Code.

(c) Quorum. Three members of the EGAAB, including at least one farmer and one community representative, shall constitute a quorum. An action by the EGAAB requires a quorum to be present and except as set for in the County Code for the consideration of petitions, at least three concurring votes.

(d) Minutes. The Board shall keep written minutes of its meetings, a copy of which shall be filed with the Clerk of the Board of Supervisors.

(e) Meetings. The Board shall give public notice of the time and place of meetings in compliance with the requirements of the Ralph M. Brown Act. All meetings of the Board shall be open and public and all persons shall be permitted to attend any meetings of the Board.

SEC. 235.5. COMPENSATION.

Members of the Board shall serve without compensation and shall not be reimbursed for expenses incurred in performing their duties under this Article.

SEC. 235.6. DUTIES AND RESPONSIBILITIES.

The Board shall have the following duties and responsibilities:

(1) To hear administrative appeals filed pursuant to Chapter 4 of Division 4 of Title 6 of the County Code.

(2) To respond to petitions for advisory opinions as set out in Chapter 4 of Division 4 of Title 6 of the County Code.

SEC. 235.7. STAFF ASSISTANCE.

The Chief Administrative Officer shall ensure the provision of the necessary staff assistance to the EGAAB.

SEC. 235.8 SUNSET.

This Board shall be placed in the regular schedule for Sunset Review Process.

Section 3: This ordinance shall take effect and be in force thirty days after its passage and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in the _____ a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

BY

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